



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

1100 Commerce Street

MS:4920:DAL

Dallas, TX 75242

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

October 15, 2008

Number: **200903088**

Release Date: 1/16/2009

LEGEND

ORG = Organization name

UIL: 501.03-01

XX = Date

Address = address

ORG

ADDRESS

Person to Contact:

Identification Number:

Contact Telephone Number:

In Reply Refer to: TE/GE Review Staff

EIN:

LAST DATE FOR FILING A PETITION

WITH THE TAX COURT: January 13, 20XX

Certified Mail-Return Receipt Requested

Dear :

This is a Final Adverse Determination revoking your exemption from federal income tax under section 501 (a) of the Internal Revenue Code (I.R.C.) as an organization described in I.R.C. section 501 (c)(3).

Our adverse determination was made for the following reason(s):

Organizations described in I.R.C. §501 (c)(3) and exempt under section 501 (a) must be both organized and operated exclusively for exempt purposes. You have provided no information regarding your receipts, expenditures, or activities. You have not established that you have operated exclusively for exempt purposes.

Based upon the above, we are revoking your organization's exemption from federal income tax under I.R.C. section 501 (c)(3), effective January 1, 20XX.

Contributions made to you are no longer deductible under section 170 of the Internal Revenue Code.

You are required to file Federal income tax returns on Forms 990-PF and 1120 for all years

beginning after January 1, 20XX. These returns should be filed with the appropriate Service Center for the year ending December 31, 20XX, and for all years thereafter.

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91st day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment. You may write to the Tax Court at the following address:

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

You also have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by calling or writing to: Internal Revenue Service, Taxpayer Advocates Office.

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Vicki L. Hansen
Acting Director, EO Examinations

Enclosure:

Attachment to Final Letter



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service
TE/GE EO Examinations
1122 Town and Country Commons Room 128
Chesterfield, MO 63017-8293

July 31, 2008

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha A. Ramirez
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

ORG**Form: 990-PF Tax Year: 20XX12****LEGEND**

ORG = Organization name XX = Date

Attachment to Final Letter

You were recognized as exempt by letter dated April 14, 19XX. The IRS has no record that you have filed returns, Forms 990 or 990-PF, since the Form 990 for 20XX was filed on October 1, 20XX. You have not responded to repeated requests for financial information and information about your activities.

I.R.C. §501 (c)(3) provides that an organization described in that section must be both organized and operated for exempt purposes. Section 6001 of the Internal Revenue Code provides that every person liable for any tax must keep adequate records as the Secretary may from time to time prescribe. Section 6033 (a)(1) provides that every organization exempt from tax shall keep such records as the Secretary may from time to time prescribe.

Treasury Regulation § 1.6001-1(e) requires that books and records are to be kept at all times and made available for inspection by the Service so long as the contents are material to the administration of the internal revenue laws. Treasury Regulation § 1.6033-1 (h)(2) requires every organization that has been recognized as exempt, whether or not it is required to file a return, to submit information as may be required for the purpose of the Service's inquiry into its exempt status.

Rev. Rul. 59-95, 1059-1 C.B. 627, provides that the failure of an organization to provide requested information about its financial status and operations may result in revocation of its exempt status on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

Because you have not provided information regarding your financial status and operations, you have not established that you are being operated for exempt purposes. Accordingly, your status as an organization described in I.R.C. §501 (c)(3) and exempt under section 501 (a) is hereby revoked.

Form 886-A	Explanation of Items	Page 1
		Issue No. 001
Name of Taxpayer ORG	Tax Identification Number	Year/Period Ended 20XX12

LEGEND

ORG = Organization name XX = Date Address = address City = city
 XYZ = State President = president

Issue:

Whether an organization that fails to submit sufficient information and/or records in order to conduct an examination should have their exempt status revoked.

Facts:

The ORG (hereinafter referred to as the "organization") was incorporated in the state of on February 11, 19XX. Their stated purposes were as follows:

1. To offer social service programs helping to make as easy a transition to those on public assistance;
2. Networking with existing agencies to circulate in the community programs that will benefit them; and
3. Mentor our youth and offer educational programs, employable skills and counseling makes them marketable for today's society.

On April 14, 19XX the organization was issued a Letter 1045 granted them exempt status under 501(c)(3) of the Internal Revenue Code. Since they were a newly created organization, a final determination of their foundation status under 509(a) of the Internal Revenue Code was not made. They were given an advanced ruling period that ended December 31, 20XX in which they were treated as publically supported organization described under 501(a)(2). See Exhibit A.

According to our records, the organization filed Form 990 for the following tax periods:

19XX12
 20XX12
 20XX12
 20XX12

According to our records, the organization is required to file Form 941 and 990 PF. At the present time the organization is classified as a Private, Non-Operating Foundation,

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On May 9, 20XX, a letter informing the organization that we were examining their status as a tax-exempt organization and their requirement, if any, to file annual information returns was mailed. This letter along with an IDR "Information Document Request" and Publication 1 was sent c/o President at Address, City, XYZ. See Exhibit B.

When no information had been received by June 8, 20XX, Letter 1477 was prepared and sent to the same address. See Exhibit C.

When the information still had not been received by June 29, 20XX, another follow-up letter was prepared stating that if the requested information was not received by July 28, 20XX we would have no alternative but to close their case, proposing revocation of their exempt status. See Exhibit D.

On August 3, 20XX, a copy of the organization's 20XX Not-For-Profit Corporation Annual Report was obtained. See Exhibit E. A follow-up letter was sent C/O COB, Chairman of the Board Certified Mail. See Exhibit F.

On August 17, 20XX, the letter sent c/o COB was returned undeliverable. Research revealed a more current address for COB at which point the letter was resent Certified Mail.

Confirmation was received that the Certified Letter was delivered to COB on August, 31, 20XX. See Exhibit G.

On October 20, 20XX, letter 3618 proposing revocation of the organization's exempt status was mailed Certified describing why it did not qualify under Section 501(c)(3) of the Code. In that letter, it requests that if the organization does not agree with the proposed findings it could submit a written protest to the Internal Revenue Service. See Exhibit H.

Confirmation was received that the Certified Letter was delivered to COB on October 27, 20XX. See Exhibit I.

On November 26, 20XX, a drafted letter was mailed Certified requesting that the organization provide the requested information as described on the Information Document Request enclosed with the letter and that the conclusions in letter 3618 sent on October 20, 20XX could be changed. See Exhibit J.

Confirmation was received that the Certified Letter was delivered to COB on December 1, 20XX. See Exhibit K.

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To date, no information or response has been received from anyone affiliated with the organization.

Law:

Section 6001 of the Internal Revenue Code provides that every person liable for any tax imposed by the Internal Revenue Code, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

Section 6033(a)(1) of the Internal Revenue Code provides, except as provided in Section 6033(a)(2), every organization exempt from tax under 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulation prescribed, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Section 1.6001-1(a) of the Income Tax Regulations in conjunction with section 1.6001-1(c) provides that every organizations exempt from tax under Section 501(a) and subject to the tax imposed by section 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deductions, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by section 6033 of the Internal Revenue Code.

Section 1.6033-2(i)(2) of the Regulations provides, in part, that every organization which is exempt from tax, whether or not it is required to file an annual information return, shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status and administering the provisions of subchapter F, chapter 1 of subtitle A of the Code, section 6033, and chapter 42 of subtitle D of the Code.

Section 6652(c)(1) of the Internal Revenue Code provides that in the case of a failure to file a return required under section 6033 on the date and in the manner prescribed therefore (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the exempt organization or trust

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failing to file, \$20 for each day during which such failure continues, but the maximum amount imposed hereunder on any organization for failure to file any one return shall not exceed the lesser of \$10,000 or five (5) percent of the gross receipts of the organization for the year. In the case of an organization having gross receipts exceeding \$1,000,000 for any year, there is a \$1000 per day penalty for failure to file with a maximum penalty of \$50,000.

Section 6652(c)(2) provides that in the case of a failure to file returns required under 6034 (relating to returns by certain trusts), or section 6043(b) (relating to terminations, etc. of exempt organizations), on the date and in the manner prescribed therefore determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the exempt organization or trust failing to file, \$10 for each day during which such failure continues, but the total amount imposed hereunder on any organization for failure to file any return shall not exceed \$5,000. Written demand may be made on organizations failing to file and if returns are not filed by the date specified, similar penalties may be imposed upon managers of such organizations. I.R.C. 6652(c)(2)(B).

Prior to passage of the Tax Reform Act of 1969, the Service issued Rev. Rul. 59-95, 1959-1 C.B.627. In this ruling, an organization exempt under section 501(c)(3) was requested to produce a financial statement as of the end of the year and a statement of its operations during the year. However, its records were so incomplete that it was unable to furnish such statements. The ruling holds that the failure or inability to file the required information return or otherwise to comply with the provisions of section 6033 and the Regulations that implement it could result in the termination of the exempt status of the organization on the grounds that the organization had not established it was observing the conditions required for the continuation of its exempt status.

Taxpayers Position:

At the issuance of this letter the taxpayer's position was not known. It is requested of the taxpayer that they provide comments and/or records in order to verify that the organization is in compliance with Section 501(c)(3) of the Code.

Government's Position:

Under Section 1.6033-2(i)(2) of the Regulations, every organization exempt from tax, whether or not it is required to file an annual information return, shall submit additional information as may be required by the Internal Revenue Service for

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the purpose of inquiring into its exempt status. During the examination, several requests for information were made, but you failed to supply the requested information. The organization has clearly failed to provide the requested information despite adequate notice as required by Section 1.6033-2(i)(2) of the Regulations.

Revenue Ruling 59-95 states if an exempt organization fails to comply with the requirements of Section 6033 of the Code and its corresponding Regulations, the organization will no longer qualify for exempt status. As described in the previous paragraph, your organization has not complied with Section 1.6033-2(i)(2) of the Regulations since no reply to information document requests have been received. Per Revenue Ruling 59-95, you do not qualify for exempt status under Section 501(c)(3) of the Code since your organization has failed to provide the required information as prescribed by Regulations of Section 6033 of the Code.

Conclusion:

You have failed to provide the required information to our requests concerning your organizations exempt status per Section 6033 of the Code. As described in Revenue Ruling 59-95, you do not qualify for exempt status under Section 501(c)(3) of the Code because of your failure to comply with the Regulations under Section 6033 of the Code. Accordingly, the organization's exempt status is revoked effective January 1, 20XX. Form 1120 and 990 PF returns should be filed for the tax periods ending on or after December 31, 20XX.

Note:

We previously sent this letter to you on October 20, 20XX. However, we received no reply to date. We are resending this letter as a courtesy. If you desire to maintain your tax exempt status, please contact us immediately. Otherwise, a final revocation letter will be issued.